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10/774,034

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Scott E. Hrastar

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08/07/2007

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CHARLOTTE, NC 28211

EXAMINER

SANTIAGO CORDERO, MARIVELISSE

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

08/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/774,034

Applicant(s)

HRASTAR, SCOTT E.

Examiner

Marivelisse Santiago-Cordero

Art Unit

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challenger in view of and Ammon et al. (hereinafter "Ammon"; Pub. No.: US 2003/017289; cited in form PTO-1449 filed on 5/5/05).

Regarding claim 1, Challenger discloses a system for tracking location of a wireless device, the system comprising:

a system data store (paragraph [0027]; note the server) capable of storing indicators of one or more wireless devices to track (paragraph [0027]);

a set of one or more wireless receivers (paragraphs [0026]-[0029]; note the workstations, wireless access points, and monitoring stations);

a system processor in communication with the system data store and the set of wireless receivers (paragraphs [0026]-[0028]), wherein the system processor comprises one or more processing elements programmed or adapted to perform the steps comprising of:

(a) identifying a wireless device for tracking based upon data from the system data store (Fig. 3; paragraph [0027]);

(b) receiving data from a subset of the set of wireless receivers (paragraphs [0026]-[0029]; note the workstations, monitoring stations, and wireless access point);

(c) storing the received data in the system data store (paragraphs [0027]-[0029]);

(d) calculating the position of the identified wireless device based upon the stored data (paragraphs [0028]-[0029]); and

(e) outputting the calculated position (Fig. 3, last step; note that the stored determined location and identity are retrieved by IT management; thus, outputted).

Challenger fail to specifically disclose the system data store capable of storing one or more tracking criteria and identifying a wireless device for tracking based upon a combination of dynamic operational and security assessments derived using data from the system data store, wherein the dynamic operational and security assessments identify the wireless device for tracking responsive to behavior of the wireless device. Note, however, that Challenger discloses monitoring during normal business hours (paragraph [0025]); thus, suggesting tracking criteria.

Nonetheless, in the same field of endeavor, Ammon discloses the system data store capable of storing one or more tracking criteria (paragraphs [0012], [0023], [0029]-[0037], [0106], [0108]-[0111]) and identifying a wireless device for tracking based upon a combination of dynamic operational and security assessments derived using data from the system data store, wherein the dynamic operational and security assessments identify the wireless device for tracking responsive to behavior of the wireless device (paragraphs [0012], [0023], and [0029]-[0037]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to store in the system data store of Challenger one or more tracking criteria and identifying a wireless device for tracking based upon a combination of dynamic operational and security assessments derived using data from the system data store, wherein the dynamic operational and security assessments identify the wireless device for tracking responsive to behavior of the wireless device as suggested by Ammon for the advantages of utilizing adaptive learning techniques for recognizing patterns in occurrences (Ammon: paragraph [0023]), thus, improving security and protection in the network.

Regarding claim 2, in the obvious combination, Ammon discloses wherein one or more tracking criteria are of a type selected from the group consisting of time, traffic level, threat level, protocol characteristics, usage characteristics or combinations thereof (paragraphs [0012] and [0029]-[0037]). Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to select the one or more tracking criteria from the group consisting of time, traffic level, threat level, protocol characteristics, usage characteristics or combinations thereof as suggested by Ammon for the advantages of utilizing adaptive learning techniques for recognizing patterns in occurrences (Ammon: paragraph [0023]), thus, improving security and protection in the network, avoids imposing an excessive burden, and the for quicker identification.

Regarding claim 3, in the obvious combination, Ammon discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of dynamically determining one or more tracking criteria (paragraphs [0012] and [0029]-[0037]). Therefore, it would have been obvious to one of ordinary skill in this art at

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the time of invention by applicant to dynamically determine one or more tracking criteria as suggested by Ammon for the advantages of utilizing adaptive learning techniques for recognizing patterns in occurrences (Ammon: paragraph [0023]), thus, improving security and protection in the network, avoids imposing an excessive burden, and the for quicker identification.

Regarding claim 4, in the obvious combination, Challenger discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) repeat steps (a) through (e) continuously (paragraph [0025]; note that the steps may be performed periodically as distinguished from continuously; however, it is not excluding it from being continuously performed. Thus, Challenger suggests that the steps (a) through (e) can be performed continuously).

Regarding claim 5, in the obvious combination, Challenger discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) repeat steps (a) through (e) periodically (paragraph [0025]).

Regarding claim 6, in the obvious combination, Challenger discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (g) modifying the period of repetition of step (f) (paragraph [0030]), but fail to specifically disclose based upon one or more tracking criteria. However, Challenger does disclose monitoring once an hour or once a day during normal business hours so as to avoid imposing an excessive burden on other uses of the devices; thus suggesting based upon one or more tracking criteria. Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to (g) modifying the period of repetition of step (f) based

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upon one or more tracking criteria as suggested for the advantages of avoiding imposing an excessive burden on other uses of the devices (Challener: paragraph [0030]).

Regarding claim 7, the limitations are rejected with the same grounds and for the same reasons stated above for claim 2.

Regarding claim 8, in the obvious combination, Challener discloses wherein the programming or adaptation to identify the wireless device includes programming or adaptation to perform the step comprising of selecting the identified wireless device based upon indicators of one or more wireless devices in the system data store (Fig. 3; paragraph [0027]).

Regarding claim 9, in the obvious combination, Challener discloses wherein the one or more processing elements are further programmed or adapted to perform the step comprising of (f) detecting an unauthorized wireless device (Fig. 3; paragraph [0027]) and (g) storing an indicator of the unauthorized wireless device in the system data store (Fig. 3, last step; paragraph [0027]).

Regarding claim 10, in the obvious combination, Challener discloses wherein the identified wireless device is the unauthorized wireless device (Fig. 3; paragraph [0027]).

Regarding claim 11, in the obvious combination, Challener discloses wherein the programming or adaptation to identify the wireless device includes further programming or adaptation to perform the step comprising of retrieving indicators of one or more wireless devices from the system data store (Fig. 3; paragraph [0027]).

Regarding claim 12, in the obvious combination, Challener discloses wherein the programming or adaptation to calculate the position of the identified wireless device includes programming or adaptation to perform the steps comprising of:

- (i) sensing the identified wireless device (paragraph [0026]);
- (ii) storing RF signal characteristics in the system data store based upon the sensing (Challener: paragraph [0027]); and
- (iii) dynamically selecting one or more additional sensors to improve tracking performance (paragraphs [0026]-[0029]).

Regarding claim 15, in the obvious combination, Challener discloses wherein the calculated position is output to a user or to a computer system (Fig. 3; last step; note that the calculated position is retrieved by IT management; thus outputted to a user or to a computer system).

Regarding claim 16, in the obvious combination, Challener discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) storing the calculated position in the system data store (Fig. 3, last step; note the “stored determined location and identity”).

Regarding claim 17, in the obvious combination, Ammon discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) removing an indicator of a wireless device from the system data store (paragraphs [0106]-[0111]; note the active flag).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to remove the indicator of the wireless device from the system data store as suggested by Ammon for the advantages of keeping the most-up-to date information and avoiding filling the data store with duplicate, redundant, and/or unnecessary information.



Regarding claim 18, in the obvious combination, Ammon discloses wherein indicator removal is based upon manual deletion, time deletion, or a change in device security status from unauthorized to authorized (paragraphs [0106]-[0111]; note the active flag).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to base the indicator removal upon manual deletion, time deletion, or a change in device security status from unauthorized to authorized as suggested by Ammon for the advantages of keeping the most-up-to date information and avoiding filling the data store with duplicate, redundant, and/or unnecessary information.

Regarding claim 19, Challenger discloses a method for tracking location of a wireless device, the method comprising the steps of:

- (a) detecting a wireless device (Fig. 3; paragraphs [0026]-[0027]);
- (b) adding an indicator associated with the detected wireless device to a list of wireless devices (Fig. 3; paragraphs [0026]-[0027])
- (c) selecting a wireless device for tracking based upon the list of wireless devices (Fig. 3; paragraphs [0026]-[0027]);
- (d) receiving data from one or more wireless receivers (paragraphs [0026]-[0029]; note the workstations, wireless access points, and monitoring stations)
- (e) calculating a position of the selected wireless device based upon the received data (Fig. 3; paragraphs [0026]-[0029])
- (f) outputting the calculated position (Fig. 3, last step; note that the stored determined location and identity are retrieved by IT management; thus, outputted;

(g) repeating steps (a) and (b) upon occurrence of an event or at periodic intervals (paragraphs [0025] and [0030]);

(h) repeating steps (c) through (f) upon occurrence of an event or at periodic intervals (paragraphs [0025] and [0030]).

Challener fail to specifically disclose detecting of a wireless device utilizing one or more dynamic operational and security assessments, wherein the one or more dynamic operational and security assessments detect the wireless device responsive to behavior of the wireless device.

However, in the same field of endeavor, Ammon discloses detecting of a wireless device utilizing one or more dynamic operational and security assessments, wherein the one or more dynamic operational and security assessments detect the wireless device responsive to behavior of the wireless device (paragraphs [0012], [0023], and [0029]-[0037]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to detect the wireless of Challener utilizing one or more dynamic operational and security assessments, wherein the one or more dynamic operational and security assessments detect the wireless device responsive to behavior of the wireless device as suggested by Ammon for the advantages of utilizing adaptive learning techniques for recognizing patterns in occurrences (Ammon: paragraph [0023]), thus, improving security and protection in the network.

Regarding claim 20, Challener in combination with Ammon disclose one or more computer readable media storing instruction that upon execution by a system processor cause the system processor to perform the method of claim 19 (Challener: Fig. 4; paragraph [0031]; see rationale as previously discussed above for claim 19).

Regarding claim 21, Challenger discloses a system for tracking location of a wireless device, the system comprising:

storing means for storing indicators of one or more wireless devices to track (paragraph [0027]);

rogue detection means for receiving scan data from one or more wireless receivers (paragraphs [0026]-[0029]), for detecting a wireless device based upon the received scan data (paragraphs [0026]-[0029]) and for storing an indicator of the detected wireless device (Fig. 3; paragraphs [0026]-[0029]); and

position determining means for selecting a wireless device to track from the indicators in the storing means (Fig. 3; paragraphs [0026]-[0029]), receiving scan data from one or more wireless receivers (Fig. 3; paragraphs [0026]-[0029]), estimating the position of the selected wireless device based upon received scan data (Fig. 3; paragraphs [0026]-[0029]) and outputting the estimated position (Fig. 3, last step; note that the stored determined location and identity are retrieved by IT management; thus, outputted).

Challenger fail to specifically disclose the storing means for storing one or more tracking criteria and the rogue detection means for detecting a wireless device based upon one or more dynamic operational and security assessments operable to detect the wireless device based on behavior, wherein the assessments are performed on the received scan data. Note, however, that Challenger discloses monitoring during normal business hours (paragraph [0025]); thus, suggesting tracking criteria.

Nonetheless, in the same field of endeavor, Ammon discloses the storing means for storing one or more tracking criteria ((paragraphs [0012], [0023], [0029]-[0037], [0106], [0108]-

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[0111]) and detecting a wireless device based upon one or more dynamic operational and security assessments operable to detect the wireless device based on behavior (paragraphs [0012], [0023], and [0029]-[0037]), wherein the assessments are performed on the received scan data (paragraphs [0012], [0023], and [0029]-[0037]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to store in the storing means of Challenger one or more tracking criteria and detecting a wireless device based upon one or more dynamic operational and security assessments operable to detect the wireless device based on behavior, wherein the assessments are performed on the received scan data as suggested by Ammon for the advantages of utilizing adaptive learning techniques for recognizing patterns in occurrences (Ammon: paragraph [0023]), thus, improving security and protection in the network.

4. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challenger in combination with Ammon, as applied to claim 1 above, and further in view of Won et al. (hereinafter "Won"; Patent No.: US 6,754,488).

Regarding claim 13, Challenger in combination with Ammon disclose the method of claim 1 (see above), but fail to specifically disclose wherein the programming or adaptation to output the calculated position includes programming or adaptation to perform the steps comprising of formatting the calculated position according to one or more output preferences. Note, however, that at the time of invention by application, output information was notoriously well known in the art to be formatted in order to meet/satisfy the needs/requirements of the receiver.

Nonetheless, in the same field of endeavor, Won discloses wherein the programming or adaptation to output the calculated position includes programming or adaptation to perform the

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steps comprising of formatting the calculated position according to one or more output preferences (col. 5, lines 23-26; col. 6, lines 36-39; note that visual or audible notification is outputted; thus, the output position is inherently formatted).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to format the calculated position of Challenger in combination with Ammon according to one or more output preferences as suggested by Won for the advantages of properly outputting the information and/or meeting the requirements of a receiver and is user-friendlier.

Regarding claim 14, in the obvious combination, Won discloses wherein the calculated position for output is formatted as an e-mail, a web page, a facsimile, a graphic, an XML page, an SNMP message, a page, or combinations thereof (col. 5, lines 23-26; col. 6, lines 36-39). Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to format the calculated position of Challenger in combination with Ammon as an e-mail, a web page, a facsimile, a graphic, an XML page, an SNMP message, a page, or combinations thereof as suggested by Won for the advantages of distributing the information in widely available applications that are user-friendly and easily adoptable to the users.

### *Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marivelisse Santiago-Cordero whose telephone number is (571) 272-7839. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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